



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.06.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.4564 of 2016

P.Murugaiah

... Petitioner

Vs.

1. The Presiding Officer,
Labour Court, Tirunelveli.

2. The Managing Director,
Tamil Nadu Transport Corporation,
Madurai (Division 2),
Tirunelveli -3.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a *Writ of Certiorarified Mandamus*, to call for the records on the file of the 1st respondent in I.D.No.21 of 2003 dated 24.11.2001 and quash the same as illegal and consequently direct the respondent to give all the back wages to the petitioner, within a stipulated time frame fixed by this Court.

For Petitioner : M/s.J.Jeyakumaran

For R-1 : Labour Court.

For R-2 : Mr.K. Sathiya Singh,
Standing Counsel



WEB COPY

ORDER

This writ petition is filed to quash the order passed in I.D.No.21 of 2003, dated 24.11.2001 with a consequential direction to the 2nd respondent to give all the back wages to the petitioner, within a stipulated time that may be fixed by this Court.

2. The petitioner was appointed as a Conductor on 01.02.1975 and has completed 24 years of service. On 14.04.1999, when the bus was travelling from Tirunelveli to Madurai, the Checking Inspector found that the collection ticket money was not properly entered in the invoice book and finally, they have concluded that the petitioner has committed misappropriation of Rs.137.50. At that time, the Inspector has obtained statement from the petitioner and the same was produced before the 2nd respondent office. Based on the above said incident, the 2nd respondent has suspended the petitioner from service on 17.04.1999. Thereafter, the 2nd respondent has conducted enquiry on 08.07.1999 and the petitioner has submitted a detailed explanation. The Enquiry officer has submitted the enquiry report, wherein the charges were held proved. Based on the enquiry report, the petitioner was terminated from service on 16.09.1999.



WEB COPY

Aggrieved over the termination order, the petitioner has approached the Labour court in I.D.No.21 of 2003. The Labour Court, vide order, dated 24.11.2011 has confirmed the termination order. However, the learned counsel appearing for the petitioner submitted that the petitioner has approached the 2nd respondent to disburse the backwages and other benefits. Since the same was not granted the petitioner is before this Court.

3. The respondents have filed counter stating that the petitioner has misappropriated a sum of Rs.137.50 by manipulating entries in the original record and duplicate tickets was issued to passengers and not making relevant entries in the invoice book about the sale of ticket. Since it is a matter of misappropriation, the petitioner cannot claim any backwages. Hence, the dismissal from service is an appropriate punishment. Therefore, the respondents prayed to dismiss the writ petition.

4. Heard M/s.J.Jeyakumaran, learned counsel appearing for the petitioner and Mr.K. Sathiya Singh, learned Standing Counsel appearing for the 2nd respondent. Perused the material documents available on record.



WEB COPY

5. The contention of the petitioner is that the charge against the petitioner is that he has not made proper entry in the invoice book cannot be accepted, because the petitioner was issued with the carbon paper as well as the white sheet. The respondents have submitted that the petitioner has deliberately used the white sheet not enter the amount in the invoice book and misappropriated the money. The said contention of the respondents was not accepted by the Labour Court. The relevant portion is extracted hereunder:

.....

□22. பயணக்கட்டணத்தை திருத்துவதற்கு ஏதுவாக வெள்ளை பேப்பர் ஒன்றினை மனுதாரர் பயன்படுத்தினார் என்று கூறப்பட்டது. அது நிலையாணை பிரிவு 16(8)ஐ புரிவது என குற்றம் சுமத்தப்பட்டது. இந்த டிக்கெட் புத்தகத்தில் இருந்து கார்பனும் வெள்ளை தாளும் ஆய்வாளரால் கண்டெடுக்கப்படுகிறது. அதை மனுதாரர் ஒப்புக்கொண்டிருக்கிறார். இந்த வெள்ளை தாளானது கார்பன் உடைய அழுத்தம் ஓரிஜினலில் பதியாமல் இருப்பதற்காக டிக்கெட் கட்டையில் கார்பனுக்கு மேலாக வைக்கப்பட்டிருந்ததாக சொல்லப்பட்டுள்ளது. இது நம்பத்தக்கதாக உள்ளது. கண்டெடுக்கப்பட்ட வெள்ளை தாளானது ஐந்து பயண சீட்டுக்களில் சேரும் இடத்தையும் பயணக்கட்டணத்தையும் எழுதாமல் இருப்பதற்காக பயன்படுத்தப்பட்டதாக கூறப்பட்டிருக்கிறது. அவ்வாறு அது



பயன்படுத்தப்பட்டிருக்குமேயானால் அந்த வெள்ளை தாளின் பின்புறத்தில் அந்த பதிவு ஏற்பட்டிருக்கும். ஏனென்றால் இருபக்கம் கொண்ட கார்பன் தான் பயன்படுத்தப்பட்டுள்ளது. எனவே இது குறித்து மனுதாரர் சொன்ன காரணம் ஏற்றுக்கொள்ளத்தக்கதாக இருக்கிறது. ஆகையினால் இந்த குற்றச்சாட்டு நிரூபிக்கப்படவில்லை என்று கருதுகிறேன்.

Having accepted the contention of the petitioner, the Labour Court has declined the relief to the petitioner. The Labour Court is a fact-finding Court and this Court is confirming the finding in favour of the petitioner.

6. Totally, there are three charges framed against the petitioner and one charge held as not proved by the Labour Court. The other charges are consequences to this charge. Therefore, this Court is of the considered opinion that the impugned order ought to be interfered with.

7. The petitioner has attained superannuation in the year 2010. But the petitioner has filed this writ petition belatedly. Therefore, this Court deems it fit to grant some compensation to the petitioner.



WEB COPY

8. The 2nd respondent shall pay a sum of Rs.1 lakh to the petitioner, as full and final settlement. The petitioner is not entitled to any other benefits. The impugned order passed in I.D.No.21 of 2003, dated 24.11.2001 by the Labour Court is modified to the extent stated supra.

9. With these observations and directions, this Writ Petition is disposed of. No Costs.

Index : Yes / No
Internet : Yes
ksa

13.06.2023

To

1. The Presiding Officer,
Labour Court, Tirunelveli.
2. The Managing Director,
Tamil Nadu Transport Corporation,
Madurai (Division 2),
Tirunelveli -3.



WEB COPY



S.SRIMATHY, J

ksa

**Order made in
W.P.(MD)No. 4564 of 2016**

13.06.2023